

Senate Amendment Striking Language Prohibiting Payments to Named Individuals—House Amendment To Prohibit Payment From Government Funds to Class of Persons

§ 27.41 To a Senate amendment which struck from an appropriation bill language prohibiting the payment of compensation to three named individuals, an amendment providing that it shall be unlawful to pay, from government funds, individuals who have engaged in subversive activities, was held not germane.

On June 8, 1943, the House was considering Senate amendments to an appropriation bill.⁽⁷⁾ During consideration of one such amendment, Mr. Sam Hobbs, of Alabama, moved that the House recede and concur in the amendment, with an amendment as described above.⁽⁸⁾ Responding to a point of order made by Mr. Clarence Cannon, of Missouri, Mr. Hobbs stated:

[The amendment] is germane because it deals with the same identical

subject matter which is covered by the Kerr amendment.⁽⁹⁾ The Kerr amendment deals, it is true, with only three named persons, but this sets up the same standard, only more rigorous, which was sought to be set up in the Kerr amendment. . . .

. . . The Kerr amendment differs from this substitute, insofar as germaneness is concerned, only in this: It named three men as the objects of its legislative wrath, whereas my substitute sets up a standard by which the eligibility of all in an indicated class must be judged. . . .

The Speaker,⁽¹⁰⁾ in ruling on the point of order, stated:

The provision of the Senate amendment that the gentleman seeks to amend by his motion very definitely applies to three individuals and no more. The motion of the gentleman from Alabama would cover numberless people if numberless people came under the provisions of his motion. The language of the bill is specific. The language of the motion of the gentleman from Alabama is general. The Chair must, therefore, hold that the motion is not germane, and sustain the point of order.

§ 28. Requirement That Amendments to Motions To Instruct Conferees Be Germane

The rule that amendments must be germane applies to the instruc-

7. H.R. 2714, Urgent Deficiency Appropriations, 1943 (Committee on Appropriations).

8. See the motion reported at 89 CONG. REC. 5511, 78th Cong. 1st Sess.

9. The Kerr amendment was that stricken by the Senate amendment.

10. Sam Rayburn (Tex.).

tions in a motion to instruct conferees,⁽¹¹⁾ and the test of an amendment to a motion to instruct conferees is the relationship of the amendment to the subject matter of the House or Senate version of the bill⁽¹²⁾ and not necessarily to the original motion to instruct.

Amendments to Motion Where Previous Question Not Ordered

§ 28.1 One motion only is in order to instruct conferees prior to the Speaker's appointment of conferees, but is subject to an amendment to the motion, an amendment to the amendment, a substitute for the original amendment, and an amendment to the substitute, if such amendments are germane and the previous question is not ordered.⁽¹³⁾

Test of Germaneness

§ 28.2 An amendment to a motion to instruct conferees must be germane to the subject matter of either the

11. See 8 Cannon's Precedents §§3230, 3235.

12. See 28.2, *infra*.

13. See §28.2, *infra*.

House or Senate bill and not necessarily to the original motion to instruct.

On Oct. 31, 1939,⁽¹⁴⁾ the following parliamentary inquiry and response thereto were made:

MR. [JOSEPH W.] MARTIN [JR. of Massachusetts]: Mr. Speaker, a parliamentary inquiry. . . .

For the information of the House, is it correct that an amendment to the motion to instruct conferees offered by the gentleman from Connecticut is in order at any time until the previous question is ordered?

THE SPEAKER:⁽¹⁵⁾ If a Member gets recognition to offer an amendment and it is germane to the subject matter of either the House or Senate bill.

The Chair thinks it important in construing the rules, for the information of all Members of the House, to state that it must always be remembered that an amendment must be germane to the subject matter under consideration. In this instance it means the amendment must be germane to some provision in the Senate amendment to the House joint resolution or in the House joint resolution itself.

The Chair may state, in order fully to clarify this matter so there may be no misunderstanding or confusion about the rights of Members—and there is no legitimate ground for confusion on this question—that now that a

14. 85 CONG. REC. 1105, 76th Cong. 2d Sess. (special session). Under consideration was H.J. Res. 306 (Committee on Foreign Affairs), the Neutrality Act.

15. William B. Bankhead (Ala.).

motion has been offered by the gentleman from Connecticut to instruct the conferees, an amendment to that motion will be in order if germane, and to that amendment an amendment may be offered if germane. To the

original amendment to the motion a substitute may be offered and an amendment to the substitute may be offered . . . and all five of those propositions may be pending at the same time.

D. AMENDMENTS IMPOSING QUALIFICATIONS OR RESTRICTIONS

Restrictions, qualifications, and limitations sought to be added by way of amendment must be germane to the provisions of the bill.

Thus, to a bill authorizing the funding of a variety of programs which satisfy several stated requirements, in order to accomplish a general purpose, an amendment conditioning the availability of those funds upon implementation by their recipients of another program related to that general purpose is germane;⁽¹⁶⁾ and an amendment delaying operation of a proposed enactment pending an ascertainment of a fact is germane when the fact to be ascertained relates solely to the subject matter of the bill.⁽¹⁷⁾

But it is not in order to amend a bill to delay the effectiveness of the legislation pending an unrelated contingency,⁽¹⁸⁾ such as the

enactment of state legislation.⁽¹⁹⁾ Thus an amendment delaying the bill's effectiveness or availability of authorizations pending unrelated determinations involving agencies and committee jurisdictions not within the purview of the bill is not germane.⁽²⁰⁾

An amendment conditioning the availability of funds to certain recipients based upon their compliance with Federal law not otherwise applicable to them and within the jurisdiction of other House committees may be ruled out as not germane.⁽¹⁾ An amendment delaying the availability of an appropriation pending the enactment of certain revenue legislation into law is an unrelated contingency and is not germane.⁽²⁾ However, an amendment to an authorization bill which conditions the expenditure of funds covered

16. See § 30.30, *infra*.

17. See 8 Cannon's Precedents § 3029 and § 31.18, *infra*.

18. See 8 Cannon's Precedents §§ 3035, 3037 and § 30, *infra*.

19. See § 31.5, *infra*.

20. See §§ 31.26 and 31.27, *infra*.

1. See § 30.23, *infra*.

2. See § 31.8, *infra*.

by the bill by restricting their availability during months in which there is an increase in the public debt may be germane as long as the amendment does not directly affect other provisions of law or impose contingencies predicated upon other unrelated actions of Congress,⁽³⁾ and an amendment proposing a conditional restriction on the availability of funds to carry out an activity, which merely requires observation of similar activities of another country, which similar conduct already constitutes the policy basis for the funding of that governmental activity, may be germane as a related contingency.⁽⁴⁾ Likewise, an amendment which conditions the obligation or expenditure of funds authorized in the bill by adopting as a measure of their availability the expenditure during the fiscal year of a comparable percentage of funds authorized by other acts or a level in a congressional budget resolution is germane as long as the amendment does not directly affect the use of other funds.⁽⁵⁾ Generally, where an amendment seeks to adopt as a measure of the availability of certain authorizations contained in the bill a condi-

tion that is logically relevant and objectively discernible, the amendment does not present an unrelated contingency and is germane.⁽⁶⁾

While it may be in order on a general appropriation bill to delay the availability of certain funds therein if the contingency does not impose new duties on executive officials, the contingency must be related to the funds being withheld and cannot affect other funds in the bill not related to that factual situation.

Where a proposition confers broad discretionary power on an executive official, an amendment is germane which directs that official to take certain actions in the exercise of the authority.

Where a provision delegates certain authority, an amendment proposing to limit such authority is germane.⁽⁷⁾ To a proposition authorizing a program to be undertaken, a substitute providing for a study to determine the feasibility of undertaking the same type of program may be germane as a more limited approach involving the same agency.⁽⁸⁾

An amendment seeking to restrict the use of funds must be limited to the subject matter and

3. See § 34.1, *infra*.

4. See §§ 31.15 and 31.16, *infra*.

5. See §§ 34.2 and 34.3, *infra*.

6. See § 31.16, *infra*.

7. See 8 Cannon's Precedents § 3022.

8. See § 30.37, *supra*.

scope of the provisions sought to be amended. To a proposition restricting the availability of funds to a certain category of recipients, an amendment further restricting the availability of funds to a subcategory of the same recipients is germane,⁽⁹⁾ and to a bill authorizing appropriations for an agency, an amendment to prohibit the use of such funds for any purpose to which the funds may otherwise be applied is germane.⁽¹⁰⁾ To a provision authorizing funds for a fiscal year, an amendment restricting the availability of funds appropriated pursuant thereto for a specified purpose until enactment of a subsequent law authorizing that purpose is germane.⁽¹¹⁾ To an amendment precluding the availability of an authorization for part of a fiscal year and then permitting availability for the remainder of the year based upon a contingency, an amendment constituting a prohibition on the availability of the same funds for the entire fiscal year is a germane alternative.⁽¹²⁾ A legislative amendment to an appropriation bill must not only retrench expenditures under Rule XXI, clause 2, but must also be germane to

the provisions to which offered. A limitation must apply solely to the money of the appropriation under consideration,⁽¹³⁾ and may not be made applicable to a trust fund provided⁽¹⁴⁾ or to money appropriated in other acts.⁽¹⁵⁾

§ 29. In General; Amendments Providing for Exceptions or Exemptions

Allocation of Funds for Pest Control

§ 29.1 To a general appropriation bill providing funds for the Department of Agriculture and including a specific allocation of funds for animal disease and pest control, an amendment was held to be germane which provided that no appropriation in the act be used for the application of chemical pesticides, where state law would prohibit such act by citizens or agencies of local government.

9. See § 34.4, *infra*.

10. See § 34.31, *infra*.

11. See § 31.6, *infra*.

12. See § 34.8, *infra*.

13. 7 Cannon's Precedents §§ 1596, 1600.

14. See 4 Hinds' Precedents § 4017.

15. See 4 Hinds' Precedents § 3927 and 7 Cannon's Precedents §§ 1495, 1597–1599.